

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 455 of 1996

in
SPECIAL CIVIL APPLICATION No 10392 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE P.B.MAJMUDAR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : YES
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : YES
5. Whether it is to be circulated to the Civil Judge? : YES

MUKUNDBHAI R MEHTA

Versus

URBAN LAND TRIBUNAL & EX OFFICIAL SECRETARY

Appearance:

MR ARUN H MEHTA for Appellant

MR ST MEHTA, AGP for Respondents

CORAM : MR.JUSTICE J.M.PANCHAL and

MR.JUSTICE P.B.MAJMUDAR

Date of decision: 23/11/1999

ORAL JUDGEMENT

(Per : Panchal, J.)

This appeal, which is filed under Clause 15 of the Letters Patent, is directed against order dated April

9, 1996 rendered by the learned Single Judge in Special Civil Application No. 10392/95, by which order passed by Urban Land Tribunal dismissing appeal directed against order of Competent Authority passed under section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 came to be affirmed.

2. The appellant had filed Form No.1 under section 6(1) of the Urban Land (Ceiling & Regulation) Act, 1976 ("Act" for short) on August 13, 1976 and had shown two parcels of land of village Vatva comprising Plot No.105 admeasuring 2095.200 sq.mts. and Plot No.84 admeasuring 2788.920 sq.mts. After receipt of the form, the Competent Authority had issued a notice to the appellant on November 11, 1982. According to the appellant, he had not received the said notice, as he had changed his residence. However, subsequently another notice was issued and hearing of the matter was fixed by the Competent Authority on September 25, 1991, but neither the appellant nor his power of attorney or his authorised agent could remain present. Ultimately, the Competent Authority finalised the matter exparte. The appellant had also applied for permission under section 20 of the Act, but according to the appellant, he had not received any intimation from the Competent Authority. Pending consideration of application for exemption which was filed under section 20 of the Act, the Competent Authority started proceedings under section 10(1) of the Act and necessary notice was issued to the appellant by the Competent Authority on January 7, 1994. A copy of the said notice is produced by the appellant at Annexure-E to the main petition. It is the case of the appellant that on receipt of the notice, he learnt that the Competent Authority had passed final order on June 4, 1992. After obtaining certified copy of the order passed by the Competent Authority, the appellant approached the Urban Land Ceiling Tribunal by filing an appeal under section 33 of the Act. The Tribunal dismissed the appeal by judgment dated February 24, 1995 which was challenged by the appellant by way of filing Special Civil Application No. 10392/95. The learned Single Judge has dismissed the petition by order dated April 9, 1996, giving rise to the present appeal.

3. It may be mentioned that the Parliament has enacted The Urban Land (Ceiling and Regulation) Repeal Act, 1999 by which the Urban Land (Ceiling & Regulation) Act, 1976 is repealed. Section 4 of the repealing Act provides that all proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of the Act, before

any Court, Tribunal or other authority shall abate. Proviso to the said section specifies that section 4 shall not apply to the proceedings relating to sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority. The record of the case does not indicate that after dismissal of appeal by the Tribunal or during the pendency of Special Civil Application which was filed by the appellant, possession of the lands in question was taken over either by the State Government or by any other authority. Mr. S.T.Mehta, learned A.G.P. has produced a letter dated October 30, 1999/ November 1, 1999 addressed by the Competent Authority and Deputy Collector, Urban Land Ceiling, Ahmedabad to the learned Government Pleader, Gujarat High Court, Ahmedabad. In the said letter, it is mentioned that the proceedings with respect to the lands in question were completed only upto the stage of section 10(1) of the repealed Act and possession of the lands concerned is not taken over by the Government. By the said letter, the learned Government Pleader is requested to make appropriate representation before the Court hearing the appeal. The letter addressed by the Competent Authority and Deputy Collector, Urban Land Ceiling, Ahmedabad to the learned Government Pleader is ordered to be taken on record of the case. In view of the contents of the letter dated October 30, 1999/ November 1, 1999 it is evident that possession of the lands concerned is not taken over by the Government and, therefore, it will have to be held that Letters Patent Appeal has abated. As the Letters Patent Appeal has abated, the same deserves to be disposed of accordingly.

For the foregoing reasons, it is held that the Letters Patent Appeal has abated. We make it clear that we have not pronounced upon legality or otherwise of the order rendered by the learned Single Judge which is impugned in the present appeal, nor the order which was passed by the Tribunal. However, we clarify that it would be open to the appellant to point out to the Competent Authority that the proceedings have abated in view of the provisions of the repealing Act. Letters Patent Appeal is accordingly dismissed as having abated, with no order as to costs.

(patel)

